

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Upon entry of this Amendment, claims 3-12, 15-24, 26-36, and 39-47 are pending in the Application. Claims 3-5, 15-17, 29, and 42 have been amended.

Claims 3-5, 8-9, 11, 15-17, 20-21, 23, 39, 41-44, and 46-47 are rejected under 35 U.S.C. §102(e) by Gagnon et al., U.S. Patent No. 6,523,643. This rejection is respectfully traversed.

Claim 3 is directed to a fender structure for a vehicle with a plurality of wheels, including: a right fender portion positionable over a right wheel; and a left fender portion associated with the right fender portion and positionable over a left wheel, wherein at least one of the right fender portion and the left fender portion includes a support portion designed as a load-bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions. A storage compartment is formed in the support portion with an opening through which items may be placed into the storage compartment. A cover is positionable over the opening. Raised support portions, in at least one of a lateral, longitudinal, and diagonal direction, are formed in one piece with at least one of the support portion and the storage compartment.

Gagnon does not disclose the fender structure as recited in claim 3. Gagnon discloses a vehicle having front fenders 104 and rear fenders 112 attached to the frame. A front storage compartment is provided at the front portion of the vehicle in front of the steering member 100. The front portion of the vehicle includes a front rack 110 and the rear portion of the vehicle includes a rear rack 124.

To begin with, Gagnon does not disclose that at least one of the right fender portion and the left fender portion includes a support portion designed as a load bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions, as recited in claim 3. In Gagnon, the top surface of the fenders are covered by a rack which is operatively connected to the frame to support a load. Accordingly, the top surface of the fenders in Gagnon is not accessible to act as a load bearing surface. Moreover, even if the rack were removed, the top surface of the fenders in Gagnon are not designed as a load bearing surface. The fenders in Gagnon are formed of a flexible plastic material that would easily buckle under application of a load thereto.

Moreover, Gagnon does not disclose raised support portions, in at least one of a lateral, longitudinal, and diagonal direction, formed in one piece with at least one of the

support portion and the storage compartment. As clarified during a telephone interview of June 3, 2003, the Examiner considers that “a raised support portion” is provided between the side of the fender and an intermediate portion of the fender. However, as clearly shown in Figure 10, for example, the fender in Gagnon has a horizontally extending portion that curves downwardly at the edge thereof. There is no raised support portion provided in Gagnon between the side of the fender and an intermediate portion of the fender. Moreover, even if Gagnon disclosed a raised support portion between the side of the fender and an intermediate portion of the fender, Gagnon does not disclose raised support portions (plural) formed in the support portion provided in at least one of the right fender portion and the left fender portion. That is, Gagnon (at best) would only support a single raised support portion in the fender and not more than one raised support portion as provided in claim 3. Withdrawal of the rejection of claim 3 is respectfully requested.

Claim 4 is directed to a fender structure for a vehicle with a plurality of wheels, including: a right fender portion positionable over a right wheel; and a left fender portion associated with the right fender portion and positionable over a left wheel, wherein at least one of the right fender portion and the left fender portion includes a support portion designed as a load-bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions. Raised support portions, in at least one of a lateral, longitudinal, and diagonal direction, are formed in one piece with the support portion.

Gagnon does not disclose the fender structure as recited in claim 4. As discussed above, Gagnon does not disclose that at least one of the right fender portion and the left fender portion includes a support portion designed as a load bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions, as recited in claim 4. Moreover, Gagnon does not disclose raised support portions in at least one of the lateral, longitudinal, and diagonal direction, formed in one piece with the support portion, as recited in claim 4. Withdrawal of the rejection of claim 4 is respectfully requested.

Claims 5, 8-9, and 11 are allowable by virtue of their dependence on claim 4 and for their recitation of additional patentable subject matter.

Gagnon does not disclose the vehicle as recited in claim 15. As discussed above, Gagnon does not disclose that at least one of the right fender portion and the left fender portion includes a support portion designed as a load bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions, as recited in claim 15. Moreover, Gagnon does not disclose raised support portions in at least one of the lateral, longitudinal, and diagonal direction, formed in one piece with at least one of the support

portion and the storage compartment, as recited in claim 15. Withdrawal of the rejection of claim 15 is respectfully requested.

Gagnon does not disclose the vehicle as recited in claim 16. As discussed above, Gagnon does not disclose that at least one of the right fender portion and the left fender portion includes a support portion designed as a load bearing surface that is defined at least in part by a top surface of at least one of the left and right fender portions, as recited in claim 16. Moreover, Gagnon does not disclose raised support portions in at least one of the lateral, longitudinal, and diagonal direction, formed in one piece with the support portion, as recited in claim 16. Withdrawal of the rejection of claim 16 is respectfully requested.

Claims 17, 20-21, and 23 are allowable by virtue of their dependence on claim 16 and for their recitation of additional patentable subject matter.

Claim 39 is directed to an all terrain vehicle including: a main frame that suspends a plurality of wheels; a fender structure supported by the main frame, the fender structure having a plurality of built-in raised support portions; a storage compartment positioned within the fender structure; and a cover sized to cover the storage compartment. The fender structure includes a central support surface defined by the cover and a lateral support surface on each side of the central support surface.

Gagnon does not disclose the all terrain vehicle as recited in claim 39. For example, Gagnon does not disclose a fender structure having a plurality of built-in raised support portions, as recited in claim 39. As discussed above, there are no raised support portions provided in Gagnon between the side of the fender and an intermediate portion of the fender as asserted by the Examiner (e.g., see Fig. 10). Moreover, Gagnon does not disclose that the fender structure includes a central support surface defined by the cover and a lateral support surface on each side of the central support surface, as recited in claim 39. In Gagnon, the lateral surfaces of the fender structure are not accessible to act as a support, nor are the lateral surfaces structured to support a load. Withdrawal of the rejection of claim 39 is respectfully requested.

Claims 41-44 and 46-47 are allowable by virtue of their dependence on claim 39 and for their recitation of additional patentable subject matter.

Claims 26-36 are rejected under 35 U.S.C. §103(a) over Gagnon. This rejection is improper since the present application was filed after November 29, 1999 and is owned by an assignee in common with Gagnon. In this circumstance, a §102(e) reference (Gagnon) cannot be applied in a §103(a) context. *See*, MPEP 706.02(k). Withdrawal of this rejection is respectfully requested.

Claims 6, 7, 10, 12, 18, 19, 22, 24, 27, 40, and 45 are rejected under 35 U.S.C. §103(a) over Gagnon. This rejection is improper. *See*, MPEP 706.02(k). Withdrawal of this rejection is respectfully requested.

All rejections and objections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and notice to that effect is earnestly solicited.

Should there be any questions or concerns regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

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